

## The seal of the Government of Madhya Pradesh is a circular emblem. It features a central shield divided into four quadrants: top-left with a crescent and star, top-right with a conch shell, bottom-left with a bull, and bottom-right with a lion. The shield is flanked by two elephants. Above the shield is a crown-like element. The entire emblem is encircled by a border containing the text 'UNITE WE STAND DIVIDE WE FALL' at the top and 'सत्यमेव जयते' at the bottom. Below the seal, the text 'GOVERNMENT OF MADHYA PRADESH' is written in English, and 'मध्य प्रदेश सरकार' is written in Hindi. At the very bottom, the year 'MDCCCXX' (1920) is inscribed.

No. 14-1720 RI

<sup>1</sup> All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

We notified Session that he could respond to the motion by December 15, 2014, but he filed no response. Therefore, the following facts are undisputed.

### **Findings of Fact**

1. The Director mailed Session a notice of adjustment dated May 21, 2014, denying his request for refund for individual income tax period 2008.
2. On July 17, 2014, Session filed a protest letter with the Director.
3. Session filed his complaint with this Commission on October 27, 2014.
4. The Director has not yet issued a final decision concerning Session's protest of the denial of his 2008 refund request.

### **Conclusions of Law**

Section 621.050.1<sup>2</sup> gives us jurisdiction over an appeal of “any finding, order, decision, assessment or additional assessment made by the director of revenue.” Before our jurisdiction arises, however, a protest must be filed with the Director and the Director must issue a final decision on that protest. Sections 143.631.1 and 143.651; *State ex. rel. Fischer v. Brooks*, 150 S.W.3d 284, 284 (Mo. banc 2004) (describing the filing of a protest as the “exclusive remedy for challenging the assessment”); *State ex rel. Fischer v. Sanders*, 80 S.W.3d 1 (Mo. App. W.D. 2002) (setting forth the protest and Director's decision on the protest as necessary steps in appealing a case to this Commission and then to a court).

Session timely filed a protest with the Director, but the Director has not yet issued a final decision on the protest. Therefore, we have no authority to decide Session's complaint at this time because the protest procedure was not concluded and he has not yet exhausted his administrative remedies. If the Director subsequently issues a final decision on the protest that is adverse to Session, he may appeal at that time.

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<sup>2</sup>Statutory references, unless otherwise noted, are to RSMo 2000.

“[A]dministrative agencies—legislative creations—possess only those powers expressly conferred or necessarily implied by statute.” *United Pharmacal Co. of Mo., Inc. v. Mo. Bd. of Pharmacy*, 208 S.W.3d 907, 913 (Mo. banc 2006) (internal quotation omitted). Thus, our authority to act comes from the statutes alone. If we lack authority to hear a complaint, we can take no action other than to exercise our inherent power to dismiss it. *State Bd. of Registration for Healing Arts v. Draper*, 280 S.W.3d 134, 136 (Mo. App., E.D., 2009).

### **Summary**

We grant the Director’s motion to dismiss the complaint because we lack jurisdiction to hear it at this time.

SO ORDERED on December 18, 2014.

\\ Karen A. Winn  
KAREN A. WINN  
Commissioner